

REMARKS**I. PRELIMINARY REMARKS**

Claims 3, 4, 9 and 17 have been amended. Claim 15 and non-elected claims 18-29 have been canceled. Claims 44-59 have been added. Claims 1-17 and 30-59 remain in the application. Reexamination and reconsideration of the application, as amended, are respectfully requested.

Applicant notes with appreciation that claims 30-43 have been allowed and that the Examiner has indicated that claims 3-7, 9 and 17 are directed to patentable subject matter. As claims 3, 4, 9 and 17 have been rewritten in independent form, applicant respectfully submits that claims 3-7, 9 and 17 are in condition for allowance.

With respect to the Statement of Reasons For Allowance on page 4 of the Office Action, applicant notes for the record that the Statement of Reasons for Allowance "is not intended to necessarily state all the reasons for allowance or all the details why claims are allowed." [MPEP 1302.14.] Additionally, the inventions claimed in the present application respectively comprise various elements in combination. Applicant respectfully submits that the patentability of each invention derives from the claimed combination of elements defining that invention, viewed as a whole, rather than from the presence of any particular element (or elements) in the combination.

II. PRIOR ART REJECTIONS**A. The Rejections**

Claims 1, 2, 8 and 10-16 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. App. Pub. No. 2003/0022041 to Barton ("the Barton application"), and as being anticipated by U.S. App. Pub. No. 2003/0022042 to Wells ("the Wells application"). As claim 15 has been canceled, it is respectfully submitted that the rejection thereof under 35 U.S.C. § 102(e) has been rendered moot. The rejection of

the remaining claims under 35 U.S.C. § 102(e) is respectfully traversed. Reconsideration thereof is respectfully requested.

B. The Barton and Wells Applications Are Not Prior Art

35 U.S.C. § 102(e) requires that the claimed invention be described "in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant." As illustrated by the declarations of Michael Bullock and Winthrop Childers, which are being filed concurrently herewith, the inventions defined by claims 1, 2, 8, 10-14 and 16 were conceived prior to the Barton and Wells application filing dates of July 25, 2001, and there was diligence from prior to July 25, 2001 up to the October 29, 2001 filing date of the above-identified application.

Applicant respectfully submits, therefore, that the Barton and Wells applications are not prior art under 35 U.S.C. § 102(e) with respect to claims 1, 2, 8, 10-14 and 16 and that the rejections of claims 1, 2, 8, 10-14 and 16 under 35 U.S.C. § 102(e) should be withdrawn.

C. The Barton and Wells Applications Also Fail To Teach Or Suggest The Claimed Combinations

1. The Barton and Wells Applications

The Barton and Wells applications each disclose a fuel cell system 10 including a fuel cell stack 12 and a monitoring and control system 14. The Barton and Wells applications state that:

[The] monitoring and control system 14 comprises various electrical and electronic components on a circuit board 38 and various sensors 44 and actuators 46 distributed throughout fuel cell system 10. Circuit board 38 carries a microprocessor or microcontroller 40 that is appropriately programmed or configured to carry out fuel cell system operation ... Electronic fuel cell monitoring and control system 14 also includes a persistent memory 42, such as an EEPROM portion of microcontroller 40 or discrete nonvolatile controller-readable media.

[Barton application at paragraph 0042, Wells application at paragraph 0039.] Referring to Figure 3 in each of the applications, the microcontroller 40 and memory 42 are

located on the same circuit board 38 and appear to be connected to one another by the type of permanent, direct connection that one would expect to find on a circuit board.

2. Claims 1, 2, 8, 10-14 and 16

Independent claim 1 is directed to “a fuel cell apparatus for use with a host device having a processor and a *processor link*.” The claimed combination comprises “a fuel reservoir,” “an information storage device” and “an information *storage device link*, operably connected to the information storage device, configured to operably connect the information storage device to the processor link.” The combinations defined by claims 2, 8, 10-14 and 16 include, *inter alia*, the elements recited in claim 1. The Barton and Wells applications each fail to teach or suggest such combinations.

For example, the Barton and Wells applications are directed to fuel cell systems and the microcontroller 40, memory 42 and the direct connection therebetween are all part of *the same fuel cell system*. There simply is no “information *storage device link* ... configured to operably connect the information storage device to the processor link” *of a host device*. Additionally, and the issue of what is being “linked” notwithstanding, applicant respectfully submits that the direct connection between the microcontroller 40 and memory 42 on the same circuit board 38 is not an “information storage device link,” as this term would be understood by one of ordinary skill in the art who had reviewed the present application.¹

Accordingly, for reasons in addition to those discussed above, the rejection of claims 1, 2, 8, 10-14 and 16 under 35 U.S.C. § 102(e) should be withdrawn.

IV. NEWLY PRESENTED CLAIMS 44-59

Newly presented independent claim 44 is directed to “a fuel cell apparatus for use with a host device having a processor and a processor link.” The claimed combination comprises “a fuel reservoir,” “an information storage device” and “an

¹ See, e.g., the present specification at page 8, lines 11-17.

information storage device link, operably connected to the information storage device, configured to operably connect the information storage device to the processor link when the fuel cell apparatus is connected to the host device and to disconnect the information storage device from the processor link when the fuel cell apparatus is disconnected from the host device." Applicant respectfully submits that the cited references fail to teach or suggest such a combination and that claims 44-51 are patentable thereover.

Newly presented independent claim 52 is directed to "a fuel cell apparatus for use with a host device having a processor and a processor link." The claimed combination comprises "a fuel reservoir," "an information storage device" and "an information storage device link, operably connected to the information storage device, configured to operably connect the information storage device to the processor link." Claim 52 also indicates that "the information storage device link and processor link are not located on a common circuit board." Applicant respectfully submits that the cited references fail to teach or suggest such a combination and that claims 52-59 are patentable thereover.

V. CLOSING REMARKS

In view of the foregoing, it is respectfully submitted that the claims in the application are in condition for allowance. Reexamination and reconsideration of the application, as amended, are respectfully requested. Allowance of the claims at an early date is courteously solicited.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is respectfully requested to call applicant's undersigned representative at (310) 563-1458 to discuss the steps necessary for placing the application in condition for allowance.

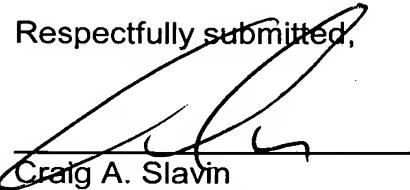
The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 08-2025. Should

such fees be associated with an extension of time, applicant respectfully requests that this paper be considered a petition therefor.

6/9/04
Date

Henricks, Slavin & Holmes LLP
840 Apollo Street, Suite 200
El Segundo, CA 90245
(310) 563-1458
(310) 563-1460 (Facsimile)

Respectfully submitted,


Craig A. Slavin
Reg. No. 35,362
Attorney for Applicant